

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

THE SEQUEL GROUP, INC., et al.,
Plaintiffs,
v.
WILMINGTON SAVINGS FUND
SOCIETY FSB, et al.,
Defendants.

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No. 3:16-CV-02056-N (BF)

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**


The Court has under consideration the Findings, Conclusions, and Recommendation [ECF No. 30] (“Findings”) of United States Magistrate Judge Paul D. Stickney dated June 7, 2017. The Court has made a *de novo* review of those portions of the proposed Findings, Conclusions, and Recommendation to which objections were made. For the following reasons, the objections are overruled, and the Court accepts the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

Defendant Wilmington Savings Fund Society, FSB d/b/a Christiana Trust as Trustee of the Residential Credit Opportunities Trust Series 2015-1 (“RCOT”) filed its Motion to Dismiss [ECF No. 11] on October 3, 2016. Plaintiffs did not file a response to RCOT’s Motion to Dismiss. *See* Docket. Plaintiffs’ former counsel withdrew from this case on March 17, 2017. *Id.* Plaintiffs’ new counsel subsequently appeared and filed their Motion to Amend the Scheduling Order and Motion to Continue [ECF No. 23] on May 23, 2017. In that motion, Plaintiffs never addressed their lack of their response to RCOT’s Motion to Dismiss or requested for leave to file a response. *See* Pls.’ Mot. 3, ECF No. 23. Accordingly, the Court denied Plaintiffs’ motion. Order 1, ECF No. 35. Plaintiffs have responded to Defendant Bayview Loan Servicing, L.L.C.’s (“Bayview”) Motion for Summary Judgment [ECF No. 24] which is still currently under consideration. On June 21,

2017, Plaintiffs filed their Objections [ECF No. 39] to the Findings. On June 27, 2017, Plaintiffs filed their Motion for Leave to Amend Pleadings [ECF No. 40]. The gravamen of Plaintiffs' objections to the Findings are based on newly discovered evidence that they contend could render the foreclosure void. *See* Pls.' Obj. 4 ¶¶ 12-13; 11 ¶ 43, ECF No. 39. Plaintiffs' previous counsel did not state this allegation in their Amended Complaint [ECF No. 10], nor did they file a response to the Motion to Dismiss. *See* R. & R. 13 n.5, ECF No. 30. The Findings correctly analyzed the live pleading at that time, Plaintiffs' Amended Complaint [ECF No. 10], as drafted by Plaintiffs' former counsel. Further, on August 23, 2017, Judge Stickney denied Plaintiffs' Motion for Leave to Amend Pleadings [ECF No. 40] based upon the same arguments that Plaintiffs assert in their objections. *See* Order 3-4, ECF No. 50. Therefore, upon consideration, the Court overrules Plaintiffs' objections and accepts the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.¹

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss [ECF No. 11] is **GRANTED**. Accordingly, Plaintiff's claims against Defendant Wilmington Savings Fund Society, FSB d/b/a Christiana Trust as Trustee of the Residential Credit Opportunities Trust Series 2015-1 ("RCOT") shall be dismissed with prejudice.

SO ORDERED, this 25th day of August, 2017.


DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE

¹ Plaintiffs' request to add unserved defendant CitiMortgage, Inc. ("CitiMortgage") remains denied.